

The Fourth Circuit then vacated this court's order and remanded for further proceedings in light of Montgomery. [DE #144]. Following issuance of the mandate, this court entered a briefing schedule directing the parties to respond to the \$ 2255 regarding the issue of timeliness under Montgomery as well as the merits if the motion were deemed timely. [DE #150]. Accordingly,

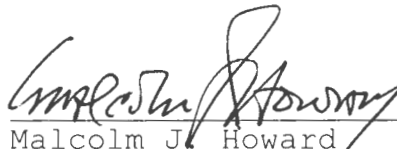
the government filed a response to petitioner's motion to vacate, [DE #109], waiving the issue of timeliness and conceding petitioner's judgment should be vacated in light of Montgomery. [DE #151]. Petitioner's motion for extension of time to file a reply, [DE #152], is hereby GRANTED, and petitioner's reply, [DE #153], is considered timely filed by this court.

The court holds, and both parties have agreed, that petitioner's judgment should be VACATED in light of Montgomery, and the petitioner should be resentenced.

Therefore, petitioner's judgment is vacated, and this matter is SCHEDULED for resentencing during this court's October 9, 2018 term of court. Petitioner shall remain in custody pending the resentencing hearing. Mr. Gordon Widenhouse, Jr., is DIRECTED to continue representing petitioner in connection with the resentencing.

The United States Probation Office is DIRECTED to provide a resentencing memorandum to the parties and the court.

This 12<sup>th</sup> day of July 2018.

  
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Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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